

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Wayne Fawley

(b) County of Residence of First Listed Plaintiff Delaware County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joseph S. Oxman, 1518 Walnut St., Suite 1010, Phila.
PA 19102 (215) 665-9999

DEFENDANTS

County of Residence of First Listed Defendant Delaware
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 1983

Brief description of cause:

1983 Civil Rights Case

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6-30-22

SIGNATURE OF ATTORNEY OF RECORD

JS Ox

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1072 Belmont Avenue, Garnet Valley, Pennsylvania 19060
 Address of Defendant: Upper Chichester Police Department, 8400 Furey Road, Aston, PA 19014
 Place of Accident, Incident or Transaction: Chichester Baseball Field Parking Lot, Chichester, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____ Must sign here 207956
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☒ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
 (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify): _____
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
 (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Joseph S. Oxman, counsel of record or pro se plaintiff, do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
☐ Relief other than monetary damages is sought.

DATE: 6-30-22 Jh 2f 207956
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

W ayne Fawley	:	CIVIL ACTION
	:	
vs.	:	No.
Officers Daniel Clapp, Kevin Connelly, E. Brinkman and	:	
J. Mark and Unknown Officers and Upper Chichester	:	
Township	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

6-30-22
Date

Joseph S. Oxman, Esquire
Attorney-at-law

Wayne Fawley
Attorney for Plaintiff

(215) 665-9999
Telephone

(215) 569-8811
FAX Number

oxmanj@ogklawyers.com
E-Mail Address

OXMAN, GOODSTADT, & KURITZ
BY: **JOSEPH S. OXMAN, ESQUIRE**
IDENTIFICATION NO: 207956
1518 Walnut Street, Suite 1010
Philadelphia, PA 19102
(215) 665-9999
Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WAYNE FAWLEY
1072 Belmont Avenue
Garnet Valley, PA. 19060

Plaintiff,

vs.

**OFFICERS DANIEL CLAPP, KEVIN
CONNELLY, E. BRINKMAN and J.
MARK AND UNKNOWN OFFICERS**
Upper Chichester Police Department
8400 Furey Road
Aston, PA 19014

and

UPPER CHICHESTER TOWNSHIP
8500 Furey Road
Aston, PA 19014

Defendants.

CIVIL ACTION NO.

District Judge

**COMPLAINT FOR VIOLATIONS OF THE 4TH
AMENDMENT OF THE CONSTITUTION OF
THE UNITED STATES, SECTION 1983 OF
THE CIVIL RIGHTS ACT, EXCESSIVE
FORCE, ASSAULT, BATTERY, FAILURE TO
TRAIN AND SUPERVISE UNDER MONELL,
INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**

Plaintiff, Wayne Fawley, by way of Complaint against defendants says:

PARTIES

1. Plaintiff, Wayne Fawley, is an adult individual and citizen of the State of Pennsylvania, residing in Garnet Valley.
2. Defendant, Upper Chichester Township, was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of Pennsylvania, with a principal place of business located at 8500 Furey Road, Aston, PA. 19014.

3. Defendant Officers Daniel Clapp, Kevin Connelly, E. Brinkman, J. Mark and Unknown Officers were at all times relevant employees of the defendant, Upper Chichester Township. At all times herein mentioned, defendant Officers Daniel Clapp, Kevin Connelly, E. Brinkman, J. Mark and Unknown Officers, were acting under the color of law and their individual capacity as police officers of the defendant, Upper Chichester Township.

JURISDICTION AND VENUE

4. The Court has jurisdiction over the lawsuit because the action arises under the Laws and Constitution of the United States, in particular, the Fourth Amendment and 42 U.S.C.A. § 1983.
5. Plaintiff was deprived of his rights secured to him under the Constitution and the laws of the United States including, but not limited to, his right to be secure in his person and property and be free from unlawful assault, battery and excessive force when no probable cause exists.
6. Plaintiff suffered assaults and sustained severe and permanent injuries to his person.
7. The Court has supplemental jurisdiction under 28 U.S.C § 1367 over plaintiff's claims arising under State law, including but not limited to violations of his State rights against defendants for, excessive force, assault, battery and intentional infliction of emotional distress because these claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.
8. Venue is proper in this Court pursuant to 28 U.S.C. §1391, as the claims at issue arose in this judicial district.

COMPLAINT
GENERAL ALLEGATIONS

9. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.
10. On or about July 17, 2020 at approximately 8:30pm, plaintiff was in a single vehicle car accident when his vehicle had a mishap with the front passenger wheel which caused plaintiff's truck to collide with the side of the Chichester Avenue Bridge at Kingsman Road.
11. After plaintiff checked his vehicle, plaintiff attempted to drive his vehicle home when he noticed smoke coming out of the hood.
12. Plaintiff pulled his vehicle into a baseball field parking lot after he realized several Chichester Police vehicles were behind him.
13. Plaintiff then exited his vehicle with his hands in the air, then without warning or justification, defendant officers grabbed the plaintiff, put him in an illegal choke hold and assaulted/battered the plaintiff by slamming plaintiff to the ground and kicking him in the head.
14. As a result of the defendants' illegal assault, battery and excessive force of the plaintiff, Wayne Fawley suffered a ruptured spleen, broken dentures, and injuries to his right shoulder.

COUNT I
PLAINTIFF WAYNE FAWLEY vs. DEFENDANT OFFICERS DANIEL CLAPP, KEVIN
CONNELLY, E. BRINKMAN, J. MARK AND UNKOWN OFFICERS
THE RIGHT OF PEOPLE TO BE SECURE IN THEIR PERSONS UNDER THE 4th
AMENDMENT OF THE UNITED STATES CONSTITUTION
FOR EXCESSIVE FORCE, UNDER SECTION 1983, OF THE CIVIL RIGHTS ACT

15. The allegations contained above are incorporated herein as though fully set forth.

16. The above described actions of defendants' on July 17, 2020, constitute violations of plaintiff's constitutionally protected rights to be secure in his person as provided by the 4th Amendment of the United States Constitution.
17. The assault and battery of plaintiff, by defendants was carried out unlawfully, intentionally and maliciously, without just or probable cause, for the express purpose of trying to justify the illegal excessive force of plaintiff.
18. The assault and battery of plaintiff by defendants violated his rights under the United States Constitution and the Laws of the State of Pennsylvania.
19. The actions of defendants as police officers were committed under color of law and authority of defendant Upper Chichester Township and its police department, and while acting in their individual capacity as police officers.
20. The actions or inactions of the defendant police officers recklessly disregarded and therefore deprived plaintiff of his rights under the Laws and Constitution of the United States, in particular, the Fourth Amendment and 42 U.S.C.A. § 1983, including but not limited to the right to be secure in their person, to be free from unlawful excessive use of force.

COUNT II

PLAINTIFF WAYNE FAWLEY vs. UPPER CHICHESTER TOWNSHIP FAILURE TO TRAIN, SUPERVISE AND DISCIPLINE DEFENDANT OFFICERS DANIEL CLAPP, KEVIN CONNELLY, E. BRINKMAN, J. MARK AND UNKNOWN OFFICERS UNDER SECTION 1983, OF THE CIVIL RIGHTS ACT AND "MONELL"

21. The foregoing paragraphs are incorporated in this Count but will not be restated for the sake of brevity.
22. Defendant, Upper Chichester Township and its police department, as a matter of policy and practice failed to discipline, train, supervise or otherwise sanction police officers

Clapp, Connelly, Brinkman, Mark and Unknown Officers who have violated the rights of citizens by illegally assaulting citizens without warrant or justification, including the plaintiffs, thus encouraging defendants officers Clapp, Connelly, Brinkman, Mark and Unknown Officers in this case to engage in assaulting citizens Upper Chichester Township.

23. Defendant, Upper Chichester Township and its police department as a further matter of policy and practice failed to train properly its police officers Clapp, Connelly, Brinkman, Mark and Unknown Officers, with respect to the constitutional, statutory and departmental limits of their authority including refraining from assaulting and illegally arresting citizens of Upper Chichester Township.

24. The defendant, Upper Chichester Township and its Police Department were on actual notice of a need to train, supervise, discipline or terminate defendant officers Clapp, Connelly, Brinkman, Mark and Unknown Officers, prior to the incident in question, as other similar incidents of assaulting and illegally arresting citizens have occurred in the past.

COUNT III
PLAINTIFF WAYNE FAWLEY vs. DEFENDANT OFFICERS DANIEL CLAPP, KEVIN
CONNELLY, E. BRINKMAN, J. MARK AND UNKOWN OFFICERS
ASSAULT AND BATTERY

25. The foregoing paragraphs are incorporated in this Count but will not be restated for the sake of brevity.

26. The above described illegal grappling, throwing, kicking and slamming to the sidewalk, constitutes an assault and battery by defendants, as a result of which plaintiff was physically injured as well as sustaining severe and significant emotional distress.

COUNT IV

PLAINTIFF WAYNE FAWLEY vs. DEFENDANT OFFICERS DANIEL CLAPP, KEVIN CONNELLY, E. BRINKMAN, J. MARK AND UNKOWN OFFICERS
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

27. The allegations contained above are incorporated herein as though fully set forth.
28. The above described illegal assault and battery by defendants caused plaintiff to be injured and sustained severe and significant emotional distress, including but not limited to, loss of sleep, loss of appetite, depression, inability to perform daily activities of work and life.

PLAINTIFF WAYNE FAWLEY vs. DEFENDANT OFFICERS DANIEL CLAPP, KEVIN CONNELLY, E. BRINKMAN, J. MARK, UNKOWN OFFICERS
and UPPER CHICHESTER TOWNSHIP
DAMAGES

29. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.
30. As a direct and proximate result of the defendants' conduct, plaintiff suffered physical pain and suffering in the past and future, severe mental anguish in the past and future and was deprived of his Constitutional Rights as aforementioned, and as such will suffer economic damages and was otherwise damaged.
31. The plaintiff has suffered and will suffer in the future from permanent residuals.

ATTORNEY FEES

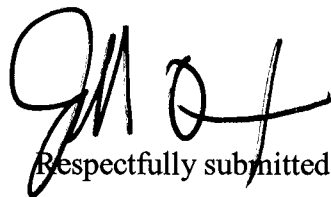
32. It was necessary for plaintiff to hire the undersigned attorney to file this lawsuit. Upon judgment, plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 1988 (b).

PRAYER

33. The above paragraphs are repeated and incorporate herein by reference as if set forth in full.
34. Plaintiff demands judgment against defendant officers Clapp, Connelly, Brinkman, Mark and Unknown Officers individually, jointly and/or in the alternative for: compensatory damages, punitive damages, attorney fees, interest and costs of suit and such relief as the Court may deem just and equitable.
35. Plaintiff demands judgment against defendant, Upper Chichester Township, jointly and/or in the alternative for: compensatory damages, attorney fees, interest and costs of suit and such relief as the Court may deem just and equitable.

PLAINTIFF'S DEMAND FOR JURY TRIAL

36. Plaintiff asserts his rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with the Federal Rule 38, a trial by jury on all issues.

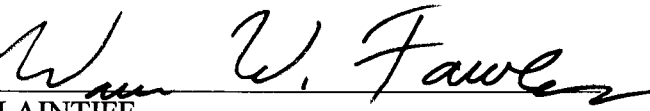
A handwritten signature in black ink, appearing to be 'JO' followed by a stylized flourish.

Respectfully submitted,

/s/ JOSEPH OXMAN, ESQUIRE
Attorney for Plaintiff

VERIFICATION

The undersigned hereby verifies that the within document is based on first-hand information and on information furnished to counsel and obtained by him in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by him during the course of this lawsuit, affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.


PLAINTIFF